THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 30118 of 1998

DATE: 14-09-2007

Between :

Smt. Terra Venkayamma and 3 others.

… Petitioners

And

Mandal Revenue Officer,
Gajuwaka,
Visakhapatnam and 2 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 30118 of 1998

ORDER:

The petitioners herein are the legal representatives of one Yerra Rama Murthy, who was the owner of 354 Square yards of land situated in Old Gajuwaka, Visakhapatnam having purchased the same under a registered sale deed. It is not in dispute that LGC.No.15 of 1990 was filed by the Mandal Revenue Officer, Gajuwaka against Yerra Rama Murthy during his life time along with four others under the provisions of the Andhra Pradesh Land Grabbing Prohibition Act, 1982 (for short 'the Act') alleging that the land in their possession was Government land and their occupation was illegal.

Though the said LGC.No.15 of 1990 was initially allowed by the Special Tribunal by an *ex parte* order dated 30-10-1992, on an application made by Yerra Rama Murthy, the said order was set aside and LGC.No.15 of 1990 was reopened. Thereafter, Yerra Rama Murthy died, but the applicant in LGC.No.15 of 1990 failed to take any steps to bring his legal representatives on record. In the circumstances, though LGC.No.15 of 1990 was allowed by the Tribunal by order dated 31-03-1998, it was made clear that so far as the claim in respect of Yerra Rama Murthy, the LGC was dismissed as abated. Thus, the proceedings for eviction initiated before the Special Tribunal, so far as the property in possession of the petitioners herein stood dismissed.

However, the petitioners herein were served with a notice dated 21-04-1998 issued under Rule 15(2) of the Rules made under the Act, calling upon them to deliver vacant possession of the property in question within a week on the basis of the eviction order dated 31-03-1998 passed by the Special Tribunal.

Assailing the said notice dated 21-04-1998, this writ petition is filed seeking a declaration that the action of the respondents in threatening to dispossess the petitioners from the property in question is arbitrary and illegal.

I have heard the learned counsel for both the parties and perused the material on record.

As could be seen from the order, dated 31-03-1998, passed by the Special Tribunal constituted under the Act, LGC.No.15 of 1990 was dismissed as abated so far as the claim of the Government against Yerra Rama Murthy is concerned. In the circumstances, as rightly contended by the learned counsel for the petitioners, the eviction order in LGC.No.15 of 1990 cannot be enforced against the petitioners herein.

The contention of the respondents in their counter affidavit that the petitioners are bound by the order dated 30-10-1992, on the face of it, is misconceived and untenable since the *ex parte* order dated 30-10-1992 was subsequently set aside pursuant to the order in I.A.No.1120 of 1992 and LGC was reopened.

In the circumstances, the impugned notice dated 21-04-1998 so far as the petitioners herein are concerned is hereby set aside and the writ petition is disposed of with a direction to the respondents not to interfere with the possession of the petitioners in respect of the property in question. However, it is made clear that this shall not preclude the respondents to initiate appropriate proceedings afresh in accordance with law. No costs.

_____

G. ROHINI, J

Date:14-09-2007
KLP